

**Executive Summary – Enforcement Matter – Case No. 49645**  
**SANTA ANITA RECLAMATION PROJECT, LLC**  
**RN105389514**  
**Docket No. 2014-1698-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM – IHW & MSW

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Santa Anita Reclamation, 25385 Farm-to-Market Road 1017, Linn, Hidalgo County

**Type of Operation:**

Land Reclamation Project Using Tires ("LRPUT")

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 12, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$14,782

**Amount Deferred for Expedited Settlement:** \$2,956

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$346

**Total Due to General Revenue:** \$11,480

Payment Plan: 35 payments of \$328 each

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 49645**  
**SANTA ANITA RECLAMATION PROJECT, LLC**  
**RN105389514**  
**Docket No. 2014-1698-MLM-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** July 3, 2014  
**Date(s) of NOE(s):** October 3, 2014

***Violation Information***

1. Caused, suffered, allowed, or permitted the unauthorized storage of industrial solid waste ("ISW"). Specifically, 123 super sacks of fiber fluff were being stored at the Facility [30 TEX. ADMIN. CODE § 335.4].
2. Failed to adhere to the approved LRPUR application. Specifically, approximately 357 scrap tires and 29 off-road tires which were too big for the tire shredder were being stored on the ground at the Facility and not in enclosed, lockable containers [30 TEX. ADMIN. CODE § 328.63(c)(4) and TCEQ LRPUR Registration ID No. 6200592, Section 9.0].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent:

- a. No longer owns or operates the Facility as of November 18, 2014; and
- b. Submitted documentation demonstrating that all unauthorized ISW being stored at the Facility was removed by January 15, 2015.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 49645**  
**SANTA ANITA RECLAMATION PROJECT, LLC**  
**RN105389514**  
**Docket No. 2014-1698-MLM-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Keith Frank, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-1203; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Lance Walker, Owner, SANTA ANITA RECLAMATION PROJECT, LLC, 126 South Stewart Road, San Juan, Texas 78589-3186

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	6-Oct-2014	<b>Screening</b>	10-Oct-2014	<b>EPA Due</b>	
	<b>PCW</b>	15-Jan-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	SANTA ANITA RECLAMATION PROJECT, LLC		
<b>Reg. Ent. Ref. No.</b>	RN105389514		
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	49645	<b>No. of Violations</b>	2
<b>Docket No.</b>	2014-1698-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Waste Tires	<b>Enf. Coordinator</b>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$15,000
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$750
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$780  
Estimated Cost of Compliance \$9,705  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$14,250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	3.7%	<b>Adjustment</b>	\$532
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.

<b>Final Penalty Amount</b>	\$14,782
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$14,782
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$2,956
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$11,826
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Screening Date 10-Oct-2014

Docket No. 2014-1698-MLM-E

PCW

Respondent SANTA ANITA RECLAMATION PROJECT, LLC

Policy Revision 4 (April 2014)

Case ID No. 49645

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105389514

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 10-Oct-2014

Docket No. 2014-1698-MLM-E

PCW

Respondent SANTA ANITA RECLAMATION PROJECT, LLC

Policy Revision 4 (April 2014)

Case ID No. 49645

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105389514

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 335.4

Violation Description

The Respondent caused, suffered, allowed, or permitted the unauthorized storage of industrial solid waste. Specifically, 123 super sacks of fiber fluff were being stored at the Facility.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 2

99 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended based on documentation of the violation during the July 3, 2014 investigation to the October 10, 2014 screening date.

## Good Faith Efforts to Comply

10.0%

Reduction \$750

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on January 15, 2015, after the Notice of Enforcement dated October 3, 2014.

Violation Subtotal \$6,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$247

Violation Final Penalty Total \$7,002

This violation Final Assessed Penalty (adjusted for limits) \$7,002

## Economic Benefit Worksheet

**Respondent** SANTA ANITA RECLAMATION PROJECT, LLC  
**Case ID No.** 49645  
**Reg. Ent. Reference No.** RN105389514  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$9,205	3-Jul-2014	15-Jan-2015	0.54	\$247	n/a	\$247
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to remove all industrial solid waste from the Facility and dispose of it at an authorized facility per invoices submitted by the Respondent. Date Required is the investigation date. Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$9,205

**TOTAL**

\$247



Screening Date 10-Oct-2014

Docket No. 2014-1698-MLM-E

PCW

Respondent SANTA ANITA RECLAMATION PROJECT, LLC

Policy Revision 4 (April 2014)

Case ID No. 49645

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105389514

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 328.63(c)(4) and TCEQ Land Reclamation Project Using Tires ("LRPUT") Registration ID No. 6200592, Section 9.0

## Violation Description

Failed to adhere to the approved LRPUT application. Specifically, approximately 357 scrap tires and 29 off-road tires which were too big for the tire shredder were being stored on the ground at the Facility and not in enclosed, lockable containers.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 2

99 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended based on documentation of the violation during the July 3, 2014 investigation to the October 10, 2014 screening date.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$532

Violation Final Penalty Total \$7,780

This violation Final Assessed Penalty (adjusted for limits) \$7,780

# Economic Benefit Worksheet

Respondent SANTA ANITA RECLAMATION PROJECT, LLC  
 Case ID No. 49645  
 Reg. Ent. Reference No. RN105389514  
 Media Industrial and Hazardous Waste  
 Violation No. 2

Percent Interest 5.0  
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
 Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	3-Jul-2014	18-Nov-2014	1.30	\$32	\$500	\$532
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to develop and implement procedures designed to ensure all tires are stored in accordance with the approved LRPOT application. Date Required is the investigation date. Final Date is the date of ownership change.

Approx. Cost of Compliance

\$500

TOTAL

\$532



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603280033, RN105389514, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN603280033, SANTA ANITA RECLAMATION PROJECT, LLC **Classification:** SATISFACTORY **Rating:** 2.50

**Regulated Entity:** RN105389514, Santa Anita Reclamation **Classification:** SATISFACTORY **Rating:** 2.50

**Complexity Points:** 1 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 25385 FM RD 1017 LINN, TX 78563, HIDALGO COUNTY

**TCEQ Region:** REGION 15 - HARLINGEN

**ID Number(s):**

**TIRES** REGISTRATION 6200592

**TIRES** REGISTRATION 6200606

**MUNICIPAL SOLID WASTE NON PERMITTED** ID NUMBER  
R15105389514

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** October 10, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 10, 2009 to October 10, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Keith Frank

**Phone:** (512) 239-1203

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	December 31, 2010	(879485)
Item 2	March 08, 2013	(1058108)
Item 3	June 24, 2013	(1086237)
Item 4	August 30, 2013	(1103194)
Item 5	February 19, 2014	(1124097)
Item 6	March 14, 2014	(1144075)
Item 7	May 30, 2014	(1160245)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SANTA ANITA RECLAMATION  
PROJECT, LLC  
RN105389514**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2014-1698-MLM-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SANTA ANITA RECLAMATION PROJECT, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owned and operated a Land Reclamation Project Using Tires ("LRPUT") at 25385 Farm-to-Market Road 1017 in Linn, Hidalgo County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste ("ISW") and municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 8, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"); nor of any statute or rule.

6. An administrative penalty in the amount of Fourteen Thousand Seven Hundred Eighty-Two Dollars (\$14,782) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Forty-Six Dollars (\$346) of the administrative penalty and Two Thousand Nine Hundred Fifty-Six Dollars (\$2,956) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eleven Thousand Four Hundred Eighty Dollars (\$11,480) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Twenty-Eight Dollars (\$328) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent:
  - a. No longer owns or operates the Facility as of November 18, 2014; and
  - b. Submitted documentation demonstrating that all unauthorized ISW being stored at the Facility was removed by January 15, 2015.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Caused, suffered, allowed, or permitted the unauthorized storage of ISW, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during an investigation conducted on July 3, 2014. Specifically, 123 super sacks of fiber fluff were being stored at the Facility.
2. Failed to adhere to the approved LRPUR application, in violation of 30 TEX. ADMIN. CODE § 328.63(c)(4) and TCEQ LRPUR Registration ID No. 6200592, Section 9.0, as documented during an investigation conducted on July 3, 2014. Specifically, approximately 357 scrap tires and 29 off-road tires which were too big for the tire shredder were being stored on the ground at the Facility and not in enclosed, lockable containers.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: SANTA ANITA RECLAMATION PROJECT, LLC, Docket No. 2014-1698-MLM-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

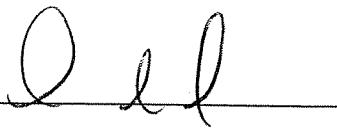
12/2/15  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

5-8-15  
Date

Lane Walker  
Name (Printed or typed)  
Authorized Representative of  
SANTA ANITA RECLAMATION PROJECT, LLC

Owner  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.